



# **A State of Vermont Employee's Guide to Workers' Compensation**

## **Understanding Your Benefits**

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## PURPOSE

You are receiving this booklet to help explain workers' compensation for State of Vermont Legislative, Executive, and Judicial branch employees. *You should not use this booklet as a substitute for legal advice.*

We developed this guide for you, as a State of Vermont employee. The material contained in this guide is only a reference. This booklet will provide answers to your most frequently asked questions about workers' compensation.

Before workers' compensation, the only way an injured/ill worker could recover costs from a work-related accident was by suing the employer. In such a lawsuit, workers had to prove that the injury/illness was the employer's fault. The legal system made it difficult for workers to obtain prompt coverage for lost wages and medical care costs. This stopped many injured/ill workers from getting needed medical care. Also, this system left employers open to costly lawsuits.

Workers' compensation insurance offers a trade-off. The insurance system gives workers security by paying for work-related injuries/illnesses. This is whether or not the employer is directly at fault. In return, workers cannot sue the employer for damages. This reduces costly lawsuits and provides benefits to all injured/ill workers. The basics of workers' compensation are the same throughout the United States. However, each state has unique laws with different benefits.

## GENERAL INFORMATION

### **What Is Workers' Compensation?**

Workers' Compensation is "no-fault" insurance that provides medical and disability benefits for injury/illness, disability, or death that happens in the course of employment.

### **Who Is Eligible For This Coverage?**

Employees of the Executive, Judicial, or Legislative branches of Vermont State Government are covered. Temporary employees and authorized volunteers are also eligible.

Independent contractors and their employees hired by the State of Vermont for specific contracted services are not covered.

### **Who Provides Workers' Compensation?**

The State of Vermont, BGS Office of Workers' Compensation (OWC) runs the State of Vermont Workers' Compensation Program. OWC acts as the insurance

carrier for covered employees. OWC assigns a claims adjuster (adjuster) and a medical case manager to each claim.

### **What Is the Adjuster's Role?**

The adjuster reviews each claim to decide if the injury/illness is compensable (eligible for benefits) according to the law.

The adjuster is responsible for:

- all of the financial, medical, and legal aspects of a workers' compensation claim
- obeying Vermont statute and the Vermont Department of Labor (VDOL) rules
- processing VDOL forms
- issuing payments to both you and your medical providers
- reviewing medical services
- coordinating the exchange of information
- helping you return to work

### **What is the Medical Case Manager's Role?**

The medical case manager plans and coordinates health care services to help you get better.

The medical case manager is responsible for:

- helping you return to pre-injury/illness baseline
- coordinating and monitoring medical treatment and progress
- obtaining medical documentation
- reviewing medical services and utilization
- working with the adjuster to ensure appropriate and cost effective treatment
- coordinating your release to work with your health care providers

<b>THE FIRST TWENTY-ONE DAYS</b>
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### **When Will A Decision Be Made On My Claim?**

After you file a claim, the adjuster has twenty-one (21) calendar days to decide if you are entitled to benefits. To make this decision, the adjuster needs information about your injury.

You will receive a BGS Office of Workers' Compensation Claim Questionnaire Form and a Medical Authorization (DOL Form 7). You must complete both of

these forms and return them to OWC as soon as possible. *Failure to sign and return the Medical Authorization (DOL Form 7) will result in a denial of your claim.*

### **What If My Claim Is Approved?**

If the adjuster approves your claim you will be notified that you are eligible for workers' compensation benefits. These benefits are explained in the pages that follow.

### **What If My Claim Is Denied?**

If your claim is denied and you disagree, contact your adjuster.

OWC may have denied your claim because information is missing. If you can provide that information, the adjuster may reverse the decision. If the decision is not reversed you can appeal by contacting the VDOL, Workers' Compensation Division. The VDOL oversees workers' compensation insurance carriers for all injured/ill workers in Vermont. They will assist you in the appeals process.

VDOL may schedule a telephone conference which is called an informal hearing. During the hearing you and the adjuster will discuss your disagreement. You will both present information for VDOL to consider. The VDOL will make a decision about your appeal.

You can use the same appeal process if the adjuster approves your claim and later decides that your benefits should end.

<b>MEDICAL BENEFITS AND EXPENSES</b>
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### **Will My Medical Expenses Be Paid?**

Workers' compensation provides coverage for all reasonable and necessary medical treatment that is related to your work injury/illness. OWC will pay for this treatment once your claim is approved. You must also complete and return your Medical Authorization (DOL Form 7) in order for your benefits to be paid.

When you attend an appointment, you should tell the treating physician that you have filed a workers' compensation claim for your injury/illness. This will allow your physician to directly bill OWC. In the event that you do receive a bill pertaining to your workers' compensation injury/illness, forward it to OWC.

### **Who Chooses The Doctor?**

You have the right to choose your treatment provider.

## **What Other Expenses Will Be Paid?**

OWC will pay all reasonable and necessary expenses related to a workers' compensation claim. These expenses may include prescriptions and mileage allowed to and from a medical appointment. OWC may pay for meals and lodging in cases where distant travel is unavoidable. Expense reimbursements are subject to the rules stated in the collective bargaining agreements and State regulations. You should submit any expense reimbursement requests to OWC.

<b>TEMPORARY DISABILITY BENEFITS</b>
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## **What Is Temporary Disability?**

Temporary Total Disability (TTD) is when you have a written statement from your treating physician that you are temporarily unable to work.

Temporary Partial Disability (TPD) is when you have a written statement from your treating physician that releases you to return to part-time work.

## **Will I Be Paid For My Absence From Work?**

You may be paid for lost time if it is related to your work injury/illness. It will only be covered if you have a current disability note or a Work Capabilities Form (DOL Form 20) from a medical provider.

Compensation is available if you are out of work more than three (3) full calendar days or if you were restricted to part time work for more than seven (7) calendar days.

You must send disability notes to OWC and to your department's Human Resource (HR) office immediately following each physical examination. These notes should also say what job-related activities you can perform. Your employer may be able to provide work based on this note. *It is your responsibility to provide this documentation. Failure to comply will affect your benefits.*

## **How Much Will I Be Paid?**

Your adjuster will calculate your Average Weekly Wage (AWW) based on your gross earnings during the twelve weeks before you began losing time. OWC will obtain this information from Human Resources.

OWC will use your AWW to figure your Weekly Compensation Benefit Rate (WCBR). Your WCBR is the amount that you will receive in your paycheck while you are completely out of work.

If you are eligible for TTD benefits, your WCBR is approximately two-thirds of your average weekly wage. You may also receive a \$10.00 weekly supplement for each dependent child. There are minimum and maximum amounts that may apply.

If you are eligible for TPD benefits, OWC will subtract the wages you earned from your WCBR and pay you the difference. TPD benefits do not include the \$10.00 weekly supplement for each dependent child.

Once your WCBR has been calculated, the adjuster will send you forms showing your benefit amount. These forms may include:

- Certificate of Dependency and Employee Exemption Report (DOL Form 10/10s)
- Agreement for Temporary Total Disability Compensation (DOL Form 21)
- Agreement for Temporary Partial Disability (DOL Form 24)

You must sign and return all of these forms. VDOL will then review them for approval.

### **What If I Have An Additional Employer?**

If you worked for anyone other than the State during the twelve weeks before you began losing time, you must notify your adjuster. This is also true if you work elsewhere while collecting wage replacement benefits. The adjuster will obtain wages from each employer. Calculation of your average weekly wage considers the combined wages of all employers.

*You are legally obligated to promptly report any work, earnings, wages, or benefits received while collecting temporary disability payments. You must provide this information to OWC and to the VDOL. Failure to provide this information could result in legal penalties. OWC may also discontinue your benefits.*

### **How Will I Receive Temporary Disability Payments?**

Temporary disability payments will be included in your regular State of Vermont paycheck.

### **How Do I Complete My Timesheet If I Am Unable To Work?**

In order to process your check on time, OWC must receive a copy of your timesheet no later than the last Friday of the pay period. You must fax the timesheets to OWC. *If OWC does not receive your timesheet by the due date, you may not receive your benefit check on time.*

If you are absent from work as a result of a work-related injury/illness and you have filed a claim, use Code 24 to show the number of hours you are absent from your job each day.

If you wish to receive a paycheck equal to your regular base salary, you may supplement your WCBR using available leave balances. You must begin by using sick leave. The amount of time you may use is limited to the difference between your WCBR and your average weekly wage.

When completing your time report, you must state that you wish to supplement. For example, "supplement with sick leave". *It is your responsibility to request a supplement each pay period.* If you have questions about the process of submitting your timesheet, contact your department's timekeeper.

### **How Do I Complete My Timesheet If I Am Back To Work But Need To Attend A Medical Appointment?**

You are allowed release time from work to go to reasonable and necessary medical appointments related to your workers' compensation injury/illness. Time for medical appointments includes reasonable travel time between the workplace and the location of the appointment. Use Code 27 on your time sheet to report these appointments. You will receive full salary for all hours reported with Code 27, without loss of leave time. *If you cannot schedule your appointments outside of normal working hours, please schedule them to be the least disruptive to your normal work schedule. Be sure to notify your supervisor of any upcoming appointments in advance.*

### **What Happens To My Payroll Deductions?**

Vermont Workers' Compensation payments are non-taxable income. These payments are not subject to the normal payroll deductions. The payroll division cannot make pre-taxed deductions from your workers' compensation benefit check. You must arrange to pay for Deferred Income or Flexible Spending Account deductions while receiving workers' compensation payments. In this way you will be able to cover the amount of these pre-tax deductions.

You cannot have your medical insurance payments deducted from workers' compensation payments if the insurance is pre-taxed. If you do not elect to have your medical premium withheld on an after-tax basis, you must send the premiums to the Employee Benefit and Wellness Division to keep your coverage active. Contact your department's HR office for assistance with these matters.

### **When Will My Temporary Disability Payments End?**

Your temporary disability payments will end:



- When you have reached “Medical End Result”; or
- When a medical provider releases you to return to full-time work

## MEDICAL END RESULT

### **What Is Medical End Result?**

Medical End Result (MER) is when you have recovered from your injury/illness to a point where you will not have any significant further improvement, regardless of treatment. You may still have pain and still need occasional treatment even if you have reached MER. The terms Medical End, Medical End Result, and Maximum Medical Improvement all mean the same thing.

## INDEPENDENT MEDICAL EVALUATION

### **What Is An Independent Medical Evaluation?**

An Independent Medical Evaluation (IME) is an examination conducted by a physician selected by OWC. This physician cannot have treated you for your workers’ compensation injury/illness. The purpose of the exam may be:

- to provide clarification about the cause of your injury/illness
- to set up proper treatment plans
- to establish an appropriate work capacity
- to document if medical end result has been achieved
- to determine the extent of any permanent disability

## PERMANENT DISABILITY BENEFITS

### **What Is Permanent Disability?**

A permanent disability occurs when you have reached MER and you have a permanent impairment of function.

### **What Is A Permanent Impairment Rating?**

A Permanent Impairment Rating (PIR) is a medical evaluation to assess permanent loss of function. A physician rates your impairment. The edition of the AMA Guide to the Evaluation of Permanent Impairment designated by the VDOL is used. *Not all injuries/illnesses will result in a permanent impairment.*

### **What If I Disagree With The PIR?**

If you did not choose the physician who did the PIR, you can request an exam with another provider.

### **How Are My Permanent Disability Benefits Calculated?**

Your adjuster will calculate these benefits based upon your PIR and your WCBR.

### **How Are Permanent Disability Benefits Paid Out?**

You will receive payment of an award for a permanent disability on a bi-weekly basis. You may also request to receive it in a lump sum. VDOL must approve this request.

### **Does Workers' Compensation Provide Death Benefits?**

Dependents of an employee will receive death benefits if the death is because of a work-related injury. The employee's representative should contact OWC for more information.

<b>RETURN TO WORK</b>
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### **What If I Have A Restricted Work Capacity?**

Your medical provider will evaluate your ability to work. The physician will complete a Work Capabilities Form (DOL Form 20). This form will provide the information necessary for a safe return to work. This may include a short term change in assigned duties. This will allow you to remain a productive state employee while you are recovering.

### **What Is A Modified Duty Assignment?**

Modified duty is a short term change of your regular full duty job. This can consist of a change of duties or a reduction in the number of hours you work.

### **What Is An Alternate Duty Assignment?**

Alternate duty is a short term assignment of other duties that you are able to perform. This may or may not be in your original department.

### **When Will My Modified or Alternate Duty Assignment End?**

Any of the following changes may cause the modified or alternate duty assignment to end:

- you are authorized to return to full duty by a medical provider
- changes in duties are not being followed
- circumstances require the short term job to be discontinued
- 90 days have elapsed

- you have reached MER

A modified or alternate duty assignment does not normally last for more than 90 days. In some situations, an extension beyond 90 days is possible for a defined time period. There are situations that do not allow for a return to original employment due to permanent restrictions.

### **What If Permanent Work Restrictions Make Me Unable To Perform The Essential Functions of My Pre-Injury/Illness Job?**

You may have some options if you reach MER and are still unable to perform the essential functions of your current position because of a work-related injury/illness. Some of these options appear below. *Contact your department's HR office, and/or the Department of Human Resources for more information regarding your specific case.*

- Returning to work with a reasonable accommodation: You may request an accommodation in accordance with the State's Reasonable Accommodation policy (Policy 3.2).
- Use of Sick Leave: You may use sick leave balances as Family and Medical Leave in accordance with the law.
- Use of Annual, Personal, or Compensatory Leave: You may request use of other leave balances as Family and Medical Leave in accordance with the law.
- Request an unpaid medical leave of absence: You may request an unpaid medical leave of absence for up to six (6) months as Family and Medical Leave in accordance with the law.
- Medical Reduction in Force (RIF): You can find an explanation of the RIF process in the applicable collective bargaining agreement "Injury on the Job" Article. If you are unable to perform the essential functions of your current position after MER, your employer may begin the RIF process. The RIF process will not begin while on approved sick leave or an approved medical leave of absence.
- Retirement (disability or normal): You may wish to consider retirement if you believe that your injury/illness has made you unable to work. Contact the Retirement Division of the state Treasurer's Office at (802) 828-2305 for more information.

### **Am I Entitled To Vocational Rehabilitation?**

Vocational Rehabilitation is a service to help you return to suitable employment as quickly as possible. You may be eligible for vocational rehabilitation benefits if you are unable to return to your previous job. Not everyone is eligible for these services. A vocational rehabilitation counselor determines eligibility on a case by case basis. Your skills, education, and work history will affect eligibility.

## STATE EMPLOYEE BENEFITS

### What Happens With My Other Benefits?

If you are a permanent employee of the State of Vermont, workers' compensation wage replacement may affect the benefits listed below. For information on your specific benefits you should contact your department's HR office. Many of the benefits mentioned are a part of one or more of the collective bargaining agreements. Some of the benefits may not apply to you depending on your job.

- Medical and Life insurance: It is your responsibility to arrange for payment of your health and life insurance premiums if you wish to continue coverage for yourself or family members.
- Shift bidding for corrections employees: Leaves of absence or time "off payroll" do not affect your seniority for length of your "continuous departmental service". Correctional officers absent on workers' compensation may be able to participate in the shift/post bidding process. You should contact your facility to ask about the detail well in advance of the shift/post bidding process.
- Holiday pay (including floating holiday): If you are absent on an official state holiday you will receive your regular base salary without charge to your leave balance.
- Shift bidding for state police: If you are a trooper your time out on workers' compensation does not affect shift bidding seniority.
- Tuition reimbursement: A work-related injury/illness usually does not affect your tuition reimbursement benefit. One exception would be if you were unable to satisfactorily meet the requirements of the program.
- Snow season: If you are an Agency of Transportation employee absent during snow season because of a work-related injury/illness, you will not receive Snow Season Compensation during the time that you are not at work.
- Emergency Closing/Reduced Workforce Situations: You will receive regular workers' compensation wage replacement for that day.
- Annual and Sick and Personal Leave: In most circumstances you will continue to earn annual and sick leave while receiving workers' compensation. *You must contact your department's HR office to verify how your annual and sick leave will accrue.*
- Personal Leave: You should receive no loss to your personal leave as a result of a work-related injury/illness.
- Assault pay: For an injury/illness resulting from an assault or other event as defined by the labor contracts, your payment will be the difference between base salary and workers' compensation benefit without charge to leave accruals.

- Under the special circumstances described below, you may also receive compensation:
  - The injury/illness results from an assault (physical contact by a person, or by an animal). If injuries result from an incident in which the participants are State employees and willing combatants, this Article shall not apply.
  - (b) An Agency of Transportation employee or a state police officer injured in a highway accident. *You will not receive compensation if the Vermont Labor Relations Board (VLRB) finds that the employee's negligence was the cause of his or her injury/illness.*
  - (c) A state police officer or a fish and wildlife warden or a motor vehicle inspector suffers an injury in hot vehicular pursuit.
  - (d) A communications technician while climbing a free standing tower, including atop airport towers. (Not applicable to rooftops).
  - (e) The provisions of this Article may extend to other appropriate cases as, for example, to airport firefighters involved in a conflagration.
- Reduction in Force (RIF) Seniority: Time spent on unpaid medical leave of absence for workers' compensation reasons does not affect your RIF seniority.

### **What Happens To My Retirement?**

As soon as you receive your first workers' compensation wage replacement payment, you should contact the Retirement Division at (802) 828-2305. Your service credit counted for your State of Vermont Retirement Benefits should not change.

The Retirement Division will need to know the beginning and ending dates of your injury/illness. They will then restore your full salary and service credit for the period of absence. *Your retirement deductions cannot come from workers' compensation payments.*

<b>EMPLOYEE RESPONSIBILITIES</b>
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- Report the injury/illness to your supervisor.
- Call OWC at (802) 828-2899.
- Submit a completed Medical Authorization (DOL Form 7) to OWC as soon as possible.
- Notify your medical case manager of all changes in your medical condition. This includes changes in work status or work capacity.
- If you are receiving workers' compensation wage replacement benefits, keep in contact with your medical case manager and supervisor. You should do this at least every 2 weeks.
- Fax your timesheet to OWC no later than the last Friday of the pay period. Without your timesheet, you will not receive your check on time.
- When you return to work either part-time or full-time notify your adjuster, your medical case manager, your supervisor, and your department's HR office.
- Contact the Payroll Division at (802) 828-2314 to discuss payroll deductions. You must contact those who receive your payroll deductions. You can discuss how they will receive payments from you. This includes arranging for payment of health and life insurance premium contributions if you wish to continue coverage.

<b>CONTACT INFORMATION</b>
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**Department of Buildings & General Services  
Office of Workers' Compensation**

128 State Street  
Montpelier, VT 05633-3801  
Tel: (802) 828-2899  
Fax: (802) 828-0410  
E-mail: [riskhelp@state.vt.us](mailto:riskhelp@state.vt.us)  
Website: [http://www.bgs.vermont.gov/workers\\_comp](http://www.bgs.vermont.gov/workers_comp)

**Department of Human Resources  
Labor Relations Division**

110 State Street, Drawer 20  
Montpelier, VT 05620-3001  
Tel: (802) 828-3454  
Fax: (802) 828-3409  
Website: <http://www.vermontpersonnel.org>

**Department of Labor  
Workers' Compensation Division**

5 Green Mountain Drive, PO Box 488  
Montpelier, VT 05601-0488  
Tel: (802) 828-2286  
Fax: (802) 828-2195  
Website: <http://www.labor.vermont.gov>

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